

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BANKFIRST,

Plaintiff,

Case No. 1:08-cv-643

v.

Hon. Paul L. Maloney

CARPENTER LAKE DEVELOPMENT, INC.,
CARPENTER RIDGE, INC., DOUBLE JJ RESORT
RANCH, INC., OUTDOOR RESOURCES, INC.,
AMERICAN APPALOOSAS, INC., ROBERT
LIPSITZ, in his individual capacity, and WALTER WOJACK,
as assignee of COMERICA BANK,

Defendants.

**ORDER EXTENDING AND MODIFYING ONLY AS TO
DEFENDANT ROBERT LIPSITZ:**

**ORDER GRANTING PLAINTIFF'S MOTION FOR IMMEDIATE CONSIDERATION
(DKT. NO. 2)**

**OPINION AND ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFF'S VERIFIED EMERGENCY MOTION FOR AN ORDER THAT CERTAIN
FUNDS TO BE DEPOSITED IN AN ESCROW ACCOUNT AND FOR APPOINTMENT
OF A RECEIVER (DKT. NO. 4)**

This matter having come before the Court on Plaintiff BankFirst's Motion for Extension and Modification, only as to Defendant Robert Lipsitz, of the July 9, 2008 Order of this Court Granting Plaintiff's Motion for Immediate Consideration (Dkt. No. 2) and Opinion and Order Granting in Part and Denying in Part Plaintiff's Verified Emergency Motion for an Order that Certain Funds to be Deposited in an Escrow Account and for Appointment of a Receiver (Dkt. No. 4) ("Original TRO Escrow Order").

On July 18, 2008, the following corporate defendants in this lawsuit filed petitions for relief under chapter 11 of the United States Code (the "Corporate Defendants"):

1. Carpenter Lake Development, Inc.
2. Carpenter Ridge, Inc.
3. Double JJ Resort Ranch, Inc.
4. OUTDOOResources, Inc.
5. American Appaloosas, Inc.

Counsel for BankFirst and new counsel for the Corporate Defendants appeared before the Court and made oral argument regarding the motion, and good cause appears for entry of this Order Extending and Modifying the Original TRO Escrow Order.

There has been no notice to either the Court or to the parties to this case that Defendant Lipsitz filed any petition for relief under chapter 11 of the United States Code and therefore the Court is proceeding on the basis that Defendant Lipsitz has not personally filed any petition for relief under chapter 11 of the United States Code.

Defendant Lipsitz did not appear before this Court on July 18, 2008 for the scheduled hearing and has not filed any pleadings in this case.

For the reasons stated by this Court on the record, and based on the authority cited by the Court on the record, at the hearing on July 18, 2008, this Court finds that the automatic stay imposed by § 362 of the Bankruptcy Code extends to the Corporate Defendants but not to Defendant Lipsitz, with respect to the matter pending before the Court (see Patton v. Bearden, 8 F.3d 343 (6th Cir.)).

This Court concludes that an extension and modification of the Original TRO Escrow Order only as to Mr. Lipsitz, and requiring the deposit of funds to the Clerk of the United States Bankruptcy Court for the Western District of Michigan, is necessary and appropriate for all of the reasons stated, and based on the authority cited, by the Court on the record on July 18,

2008, including for the reason that the requested relief will further the purposes of the Bankruptcy Code.

IT IS ORDERED that Plaintiff's Motion to Extend and Modify as to Defendant Lipsitz only this Court's Original TRO Escrow Order is **GRANTED**.

IT IS FURTHER ORDERED that any funds in Defendant Lipsitz's possession or personal control that are due and owing under this Court's Original TRO Escrow Order shall be deposited with the Clerk of the United States Bankruptcy Court for the Western District of Michigan pursuant to that Court's policies and procedures.

IT IS FURTHER ORDERED that this Court's Original TRO Escrow Order is extended for an additional ten (10) days, or until July 28, 2008, as to Defendant Lipsitz only and as modified herein; it is further ordered that a hearing on Plaintiff's motion for a preliminary injunction shall be heard by this Court on July 25, 2008, at a time to be set by the Court.

Dated: July 18, 2008

/s/ Paul L. Maloney
JUDGE OF THE DISTRICT COURT